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<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number (Optional) 2060-01400	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>March 28, 2006</u> Signature <u>Ella R. Sisco</u> Typed or printed name <u>Ella R. Sisco</u>		Application Number 09/808,553 First Named Inventor Nikhil JHINGAN Art Unit 2152	Filed March 14, 2001 Examiner Chad ZHONG
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.  This request is being filed with a notice of appeal.  The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>54,036</u> <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		Signature <u>Alan D. Christenson</u> Typed or printed name <u>Alan D. Christenson</u> Telephone number <u>(713) 238-8000</u> Date <u>March 28, 2006</u>	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			
<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellants:	Nikhil JHINGAN and Vinod Udham VASNANI	§	Confirmation No.:	3915
		§		
Serial No.:	09/808,553	§	Group Art Unit:	2152
		§		
		§	Examiner:	Chad ZHONG
		§		
Filed:	March 14, 2001	§	Attorney Docket No.:	2060-01400
		§		
For:	A Global Storage System	§	Client Ref No.:	7558SG4/HMK/nbs

**PRE-APPEAL BRIEF REQUEST FOR REVIEW****Mail Stop AF**

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Date: March 28, 2006

Sir:

Appellants hereby submit this Pre-Appeal Brief Request for Review in connection with the above-identified application. A Notice of Appeal is filed concurrently herewith. This Pre-Appeal Brief addresses the obvious rejections of claims 21-36. For convenience, claim 21 is reproduced below.

Claim 21. A method for storing and accessing user-specific data in a client-server computer network, the method comprising the steps of:  
a user performing, from a first computer, a login operation to a first server in the network;  
determining, based on the login operation performed by the user and a location of the first computer in the network, a second server in the network for storing user-specific data;  
the user sending, from the first computer to the first server in the network, a request to store the user-specific data;  
redirecting the request to the second server for storing of the user-specific data at the second server; and  
conducting a data upload directly between the first computer and the second server to store the user-specific data at the second server.

In rejecting claim 21, the Examiner compares Appellants' claimed "first server" and "second server" to Ussery's intranet server 202 and database server 100 respectively (see Figure 2). The Examiner's comparison is improper at least because Ussery's login operation is not performed to the intranet server 202 (which the Examiner compares to Appellants' "first server") yet claim 21 requires "a user performing, from a first computer, a login operation to

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[the] first server". Ussery clearly teaches a login operation is performed to the database server 100 (which the Examiner compared to Appellants' "second server"). Specifically, Ussery states "[a] user 204 is passed to database administrator 102 and access controller 104. The user then enters a login that is based on a previously created profile table and, if the login is correct, then the request for a view of data record is passed to security controller 106" (see paragraph [0053]). At paragraph [0046], Ussery also teaches "when an authorized user logs into database server 100...." For these reasons, Ussery does not disclose Appellants' claimed "login operation to [the] first server" as suggested by the Examiner. Distinguishing which of the two servers receives the login operation is relevant since claim 21 specifies locality and functions related to the "first server" and the "second server".

Claim 21 further requires "determining, based on the login operation performed by the user and a location of the first computer in the network, a second server in the network for storing user-specific data". In Ussery, the database server 100 is concerned with security of client data, as opposed to any relationship between the location of the first computer in the network and a server that stores data. The division of Ussery's database 101 serves to achieve security in terms of unavailability of the "complete" data in anyone of the databases 101. For example, in paragraphs [0129] - [0131], Ussery emphasizes the security aspect of data in the divided database 101a-101n, yet is completely silent on any association of the location of the client terminals (items 204, 206, and 208 of Figure 2) and the selection of the database server 100. Paragraph [0054] of Ussery describes the operation of security controller 106 to repeatedly divide database 101. In contrast, claim 21 requires "determining, based on the login operation performed by the user and a location of the first computer in the network, a second server in the network for storing user-specific data".

The Examiner recognizes that Ussery does not teach Appellants' claimed "determining, based on the login operation performed by the user and a location of the first computer in the network, a second server in the network for storing user-specific data", but argues that Kenner teaches this limitation. Since Ussery is directed to dividing data for security reasons, Appellants submit that there would be no motivation whatsoever for a person of ordinary skill to consider a modification of the disclosure in Ussery to arrive at the aforementioned feature of claim 21. As is well established, the motivation of combining prior

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art documents must come from the prior art itself, and not from a reading of the present specification (see MPEP 2143).

Furthermore, Kenner does not disclose Appellants' claimed "determining, based on the login operation performed by the user and a location of the first computer in the network, a second server in the network for storing user-specific data" as suggested by the Examiner. Rather, as admitted by the Examiner, Kenner only discloses a "smart mirroring" system to direct user requests for web content. As is evident from the description in Kenner (e.g., col. 5, lines 7-19, col. 8, lines 7-19 and col. 21, lines 36-51), Kenner is only concerned with delivery or downloading of content, such as video clips, as opposed to Appellants' claimed "determining...a second server in the network for storing user-specific data" and "conducting a data upload directly between the first computer and the second server to store the user-specific data at the second server". In other words, claim 21 relates to selecting a server to store user-specific data while Kenner relates to selecting to download data from one of many mirroring sites that already store data. Even if Kenner could be combined with Ussery, Appellants repeat that there is no motivation to modify the disclosures of Kenner and Ussery so as to arrive at the aforementioned feature of claim 21. Therefore, a person of ordinary skill would still not arrive at the aforementioned feature without performing a further inventive step.

In addition to the reasons provided with respect to claim 21, claim 22 is allowable for at least the following reasons. Claim 22 requires "the first server comprises an application server element and a determination server element and the method comprises the user performing the login operation to the application server element, and the application server element performing another login operation to the determination server element based on the login operation performed by the user, for determining, based on the location of the first computer in the network, the second server in the network for storing the user-specific data."

In Ussery there is no teaching or suggestion of another login operation between an application server element and a determination server element based on the login operation performed by the user, for determining, based on the location of the first computer in the network, the second server in the network for storing the user-specific data. Rather, Ussery teaches that the access controller 104 passes a request for a view of data records to security controller 106 (see paragraph [0053]) and the security controller 106 divides the database

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101 into portions 101a-101n (see paragraph [0054]). Kenner is likewise deficient in this regard. For at least these additional reasons, claim 22 is allowable over the cited references.

In addition to the reasons provided with respect to claim 21, claim 24 is allowable for at least the following reasons. Claim 24 requires "the user or another user performing a login operation to the first server from a second computer and sending a request relating to said user-specific data to the first server; redirecting the request to the second server based on the login operation from the second computer; and conducting transactions relating to the user-specific data directly between the second computer and the second server." Ussery does not teach or suggest the limitations of claim 24 where the user or another user performs a login operation to the first server from two different computers but relating to the same user-specific data. The invention as defined in dependent claim 24 provides that subsequent requests relating to the initially created user-specific data will be redirected based on the login operation from the second computer. The invention defined in dependent claim 24 is particularly useful, for example, where a user wishes to access his data while traveling. In such case, the user would not desire a "transfer" of his data to a server based on the location of another, temporary, computer used for the data access during his travels. In contrast to the limitations of claim 24, Kenner is directed to mirroring sites that already store replicated data and teaches selecting a best mirroring site. For at least these additional reasons, claim 24 is allowable over the cited references.

In addition to the reasons provided with respect to claims 21 and 24, claim 25 is allowable for at least the following reasons. Claim 25 requires "replicating at least a portion of the user-specific data on a third server selected based on a location of the second computer on the network, and redirecting requests relating to the user-specific data from the second computer to the third server." Ussery does not disclose or suggest replicating at least a portion of the user-specific data on a third server selected based on a location of the second computer on the network, and redirecting requests relating to the user-specific data from the second computer to the third server. Again, there is no disclosure or suggestion in Ussery that links location of any of the user terminals (204, 206, 208, Figure 2) to selection of any servers. Furthermore, any disclosure of "moving" data by the security controller 106 between the different database portions 101a-101n does not serve a replication purpose. Rather, in


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stark contrast, the purpose in Ussery is division of data into portions, and distribution of portions among different locations for security purposes. Replication of data would be seen as compromising the entire purpose of the disclosure in Ussery.

The invention defined in dependent claim 25 is useful where a user intends to repeatedly access his data from a temporary location, in which case replication of at least a portion of the data on a third server selected based on the location of the second computer can be desirable, for example, for consideration of access speed. Again, Kenner is directed to mirroring sites and teaches selecting a mirroring site for downloading video data (see col. 14, lines 15-31). Kenner does not disclose Appellants' claimed "replicating at least a portion of the user-specific data on a third server selected based on a location of the second computer on the network, and redirecting requests relating to the user-specific data from the second computer to the third server." Instead, Kenner generally teaches the locations of the delivery sites are determined by marketing considerations and cost/benefit analysis (see col. 13, lines 64-66). For at least these additional reasons, claim 25 is allowable over the cited references.

Appellants respectfully request reconsideration and that a timely Notice of Allowance be issued in this case. It is believed that no extensions of time or fees are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required (including fees for net addition of claims) are hereby authorized to be charged to Conley Rose, P.C.'s Deposit Account No. 03-2769.

Respectfully submitted,

  
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